

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

OPTUM, INC. and
OPTUM SERVICES, INC.,

Plaintiffs,

v.

DAVID WILLIAM SMITH,

Defendant.

Civil Action No.: 19-cv-10101-MLW

**PLAINTIFFS' MOTION FOR LEAVE TO FILE A FURTHER REPLY
IN SUPPORT OF THEIR MOTION FOR TEMPORARY RESTRAINING ORDER**

Pursuant to LR 7.1(b)(3), Plaintiffs Optum, Inc. and Optum Services, Inc. (together, “Plaintiffs” or “Optum”), respectfully move for leave to file a further, limited reply (the “Reply”) in support of their Motion for a Temporary Restraining Order, in light of this Court’s February 19, 2019 Order (Dkt. # 88). As grounds for this motion, Optum submits its proposed Reply as an attachment hereto and states the following:

1. This Court has asked the parties to be prepared to address the standard for obtaining temporary injunctive relief as set out in *Winter v. NRDC*, 555 U.S. 7 (2008), and *Charlesbank Equity Fund II v. Blinds to Go, Inc.*, 370 F.3d 151 (1st Cir. 2004). Dkt. # 88.

2. Plaintiffs’ proposed Reply analyzes the standards set forth in *Winter* and *Charlesbank* and will assist the Court in deciding Plaintiffs’ Motion for Temporary Restraining Order. As discussed in the Reply, both of those decisions confirm that Optum is entitled to a TRO because, absent injunctive relief, it is certain to suffer irreparable harm and because it has no adequate remedy at law for such harm.

3. No party will be prejudiced by the allowance of this motion.

Respectfully submitted,

OPTUM, INC. and
OPTUM SERVICES, INC.,

By their attorneys,

/s/ Stephen D. Riden

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Dated: February 20, 2019

CERTIFICATE OF SERVICE

I hereby certify that this document has been filed through the CM/ECF system on February 20, 2019, and will be served electronically to the registered participants as identified on the Notice of Electronic Filing through the Court's transmission facilities, and that non-registered participants have been served this day by mail.

/s/ Stephen D. Riden

LOCAL RULE 7.1(a)(2) CERTIFICATE

I certify, pursuant to Local Rule 7.1(a)(2), that counsel for Plaintiffs have conferred with counsel for Defendant regarding Plaintiffs' Motion for Leave to File a Reply, and have attempted in good faith to resolve or narrow the issues. Defendant has indicated that Defendant opposes the relief requested by this motion.

/s/ Stephen D. Riden